

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Armstrong, et al.

Serial No. 09/835,699

Filed: April 16, 2001

For: POLYNUCLEOTIDE HERPES VIRUS  
VACCINE

Art Unit: 1631

Examiner: Martinell, James

Assistant Commissioner for Patents  
Washington, D.C. 20231

## **INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR 1.97**

Sir:

1. In compliance with 37 C.F.R. 1.97, submitted on the attached form herewith is a list of patents, publications or other information which are requested to be made of record in this application. This Information Disclosure Statement is not an admission that any patent, publication or other information referred to herein is "prior art" for this invention. In accordance with 37 C.F.R. 1.97(h), the filing of this Information Disclosure Statement shall not be construed to be an admission that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. 1.56(b).

2. In accordance with 37 C.F.R. 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made.

3. Applicants respectfully request that the Examiner initial the attached form after reviewing the pertinence of each reference.

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date appearing below.

~~MERCK & CO., INC.~~

By \_\_\_\_\_ Date \_\_\_\_\_

## INFORMATION DISCLOSURE STATEMENT

4. Except for Cite Nos. \_\_\_\_\_, copies of the references listed on the attached form are not enclosed because they have been submitted to or cited by the Office in a related application as follows:

RELATED APPLICATION		
U. S. SERIAL NUMBER	FILING DATE	MERCK CASE

upon which the instant application relies for an earlier filing date under 35 U.S.C. 120. Therefore, pursuant to 37 C.F.R. 1.98(d), copies of these references are not enclosed herewith. If this is inconvenient, additional copies will be submitted upon request.

5. In accordance with 37 C.F.R. 1.97, (check one)

the attached information is filed within three months of the filing date of the captioned case.

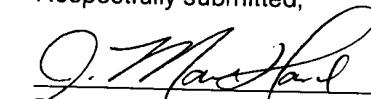
the attached information is filed more than three months after the filing date but prior to the mailing of a first Office Action on the merits.

the attached information is being filed more than three months after the filing date and after the mailing of a first Office Action on the merits, but before the mailing date of a Final Action or Notice of Allowance. The enclosed authorization is therefore given to charge Deposit Account No. 13-2755 for the fee required under 37 C.F.R. 1.17(p).

the undersigned certifies that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement.

the undersigned certifies that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, was known to any individual designated under 37 C.F.R. 1.56(c) more than three months prior to the filing of this Statement.

Respectfully submitted,



By: J. Mark Hand

Attorney \_\_\_\_\_ For Applicant(s)

Reg. No. 36,545

MERCK & CO., INC.

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Date: April 21, 2003

# FEE TRANSMITTAL

Patent fees are subject to annual revision.

**TOTAL AMOUNT OF PAYMENT** **\$180**

Complete if Known	
Application Number	09/935,699
Filing Date	April 16, 2001
First Named Inventor	Armstrong, et al.
Examiner Name	Martinell, James
Group Art Unit	1631
Attorney Docket Number	19258CC

## METHOD OF PAYMENT (Check one)

Deposit Account

Deposit Account Number

13-2755

Deposit Account Name

Merck & Co., Inc.

The Commissioner is authorized to:

Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) during the pendency of this application

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	750	Utility filing fee	
1002	330	Design filing fee	
1004	750	Reissue filing fee	
1005	160	Provisional filing fee	
SUBTOTAL(1)			\$0

### 2. EXTRA CLAIM FEES

Total Claims	-	20	** =	0	x	\$18 =	0
Independent Claims	-	3	** =	0	x	\$84 =	0
Multiple Dependent Claims					\$280 =		

\*\*or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code	Fee (\$)	Fee Description
1202	18	Claims in excess of 20
1201	84	Independent claims in excess of 3
1203	280	Multiple dependent claim, if not paid
1204	84	**Reissue independent claims over original patent
1205	18	**Reissue claims in excess of 20 and over original patent
SUBTOTAL(2)		

\$0

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	Surcharge - late filing fee or oath	
1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1251	110	Extension for reply within first month	
1252	410	Extension for reply within second month	
1253	930	Extension for reply within third month	
1254	1,450	Extension for reply within fourth month	
1255	1,970	Extension for reply within fifth month	
1401	320	Notice of Appeal	
1402	320	Filing a brief in support of an appeal	
1403	280	Request for oral hearing	
1452	110	Petition to revive - unavoidable	
1453	1,300	Petition to revive - unintentional	
1501	1,300	Utility issue fee (or reissue)	
1502	470	Design issue fee	
1460	130	Petitions to the Commissioner	
1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	Submission of Information Disclosure Statement	180
8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	Request for Continued Examination (RCE)	
Other fee (specify)			
Other fee (specify)			
SUBTOTAL(3)			\$180

## SUBMITTED BY

Typed or Printed Name

J. Mark Hand

Complete (if applicable)

Reg. Number 36,545

Signature

Date 04/21/2003

Deposit Account User ID

IN DUPLICATE